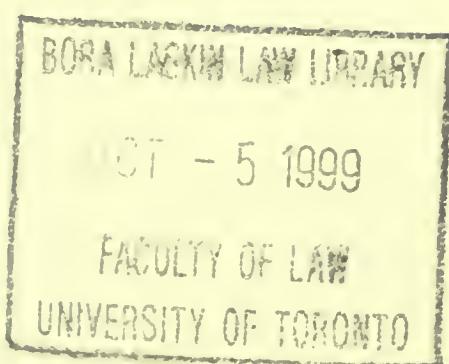




Fundamental Rights, Justice and Truth in South Africa

Justice Sachs



BORA LASKIN LAW LIBRARY
UNIVERSITY OF TORONTO

Fundamental Rights, Justice and Truth in South Africa

Justice Sachs



Digitized by the Internet Archive
in 2018 with funding from
University of Toronto

<https://archive.org/details/fundamentalright00sach>

University of Toronto Lectures by Albie Sachs

1. Themes

- A. Human rights in Africa: Getting there in South Africa
- B. Are we truly concerned with the rights of criminals?
 - 1. The Death Penalty
 - 2. The right to a fair trial
- C. The right to be different
 - 1. Equality law
 - 2. The Language Question
 - 3. Customary law
- D. The Truth and Reconciliation Commission
- E. Socio-economic Rights
- F. Overview: Human Right in the twenty-first century

2. Study Material

Contact session 1:

A. Human rights in Africa: Getting there in South Africa

- (i) Albie Sachs "The Colours of Africa" 1-10
- (ii) Albie Sachs "The Origins of Democracy and Human Rights in Africa"
- (iii) Albie Sachs "Ground Rules" July 1997 Red Pepper 12-15
- (iv) Albie Sachs "Constitutional Developments in South Africa" Summer 1996 New York University Journal of International Law and Politics (Volume 28 Number 4) 695-709
- (v) Albie Sachs "The Creation of South Africa's Constitution" 1997 New York Law School Law Review (Volume XLI Number 2) 665-701
- (vi) Albie Sachs "South Africa's Unconstitutional Constitution: The Transition from Power to Lawful Power" Fall 1997 Saint Louis University Law Journal (Volume 41 Number 4) 1249-1257

Contact session 2:

B. Are we truly concerned with the rights of criminals?

(1) The Death Penalty

- (i) S v Makwanyane and Another 1995 (6) BCLR 665 (CC)
 - (a) Headnote
 - (b) Judgment by Ackermann J ad paras [152]-[172]
 - (c) Judgment by Didcott J ad paras [173]-[190]
 - (d) Judgment by Kentridge AJ ad paras [191]-[204]
 - (e) Judgment by Kriegler J ad paras [205]-[214]
 - (f) Judgment by Langa J ad paras [215]-[234]
 - (g) Judgment by Madala J ad paras [235]-[260]
 - (h) Judgment by Mahomed J ad paras [261]-[299]
 - (i) Judgment by Mokgoro J ad paras [300]-[317]

- (j) Judgment by O'Regan J ad paras [318]-[344]
- (k) Judgment by Sachs J ad paras [345]-[392]

(2) The right to a fair trial

- (i) S v Zuma 1995 (2) SA 642 (CC); 1995 (4) BCLR 401 (CC) - Reverse onus
 - (a) Headnote
- (ii) S v Mbatha; S v Prinsloo 1996 (2) SA 464 (CC); 1996 (3) BCLR 293 (CC) - Reverse onus
 - (a) Headnote
- (ii) Shabalala v Attorney-General Transvaal 1996 (1) SA 725 (CC); 1995 (12) BCLR 1593 - access to state dockets
 - (a) Headnote
- (iv) Sanderson v Attorney-General Eastern Cape 1998 (2) SA 38 (CC); 1997 (12) BCLR 1675 (CC) - Right to a speedy trial
 - (a) Headnote
- (v) S v Dlamini; S v Dladla; S v Joubert; S v Schietekat 1999 (7) BCLR 771 (CC) - Bail
 - (a) Headnote

Contact session 3:

C. The right to be different

1. Equality law

- (i) City Council of Pretoria v Walker 1998 (2) SA 363 (CC); 1998 (3) BCLR 257 (CC)
 - (a) Headnote
 - (b) Judgment by Sachs J ad paras [100]-[141]
- (ii) National Coalition for Gay and Lesbian Equality and Another v Minister of Justice and Others 1998 (12) BCLR 1517 (CC)
 - (a) Headnote

- (b) Judgment by Sachs J ad paras [107]-[138]
- (iii) Albie Sachs “Equality Jurisprudence: the Origin of Doctrine in the South African Constitutional Court” The Tenth McDonald Lecture 1-30

Contact session 4:

2. The Language Question

- (i) Albie Sachs “The Language Question in a Rainbow Nation: South African Experience”
- (ii) In re: The School Education Bill of 1995 (Gauteng) 1996 (3) SA 165 (CC); 1996 (4) BCLR 537 (CC)
 - (a) Headnote
 - (b) Judgment by Sachs J ad paras [44]-[92]

3. Customary law

- (i) Albie Sachs “Towards the Liberation and Revitalisation of Customary Law” 1-22

Contact session 5:

D. The Truth and Reconciliation Commission

- (i) Albie Sachs Fourth DT Lakdawala Memorial Lecture delivered on the 18th of December 1998 in New Delhi

Contact session 6:

E. Socio-economic Rights

- (i) Soobramoney v Minister of Health, KwaZulu-Natal 1998 (1) SA 765 (CC); 1997 (12) BCLR 1696 (CC)
 - (a) Headnote
 - (b) Judgment of Sachs J ad paras [50]-[59]

Contact session 7:

F. Overview: Human Right in the twenty-first century

- (i) Albie Sachs “Human Rights in the 21st Century: Prospects, Institutions and Process” 1996 Canadian Institute for the Administration of Justice 1-19

